

**NATIONAL  
INDIAN  
GAMING  
COMMISSION**

APR 15 1994

John Neumann  
Director - Gaming Commission  
Lac Vieux Desert Band of  
Lake Superior Chippewa Indians  
P.O. Box 249  
Choate Road  
Watersmeet, Michigan 49969

Dear Mr. Neumann:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Lac Vieux Desert Band of Lake Superior Chippewa Indians (the Tribe) on April 5, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Lac Vieux Desert Band of Lake Superior Chippewa Indians for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope  
Chairman

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Lac Vieux Desert Band of Lake Superior Chippewa Tribal Government

P.O. Box 249, Choate Road • Watersmeet, Michigan 49969

906-358-4577 • Fax: 906-358-4785

*Executive Officers:*

John C. McGeshick, Tribal Chairman  
Albert Pete, Vice-Chairman  
Elizabeth Martin, Secretary  
Harvey White, Treasurer

*Council Members:*

John McGeshick, Jr.  
Michael Hazen  
Jim Williams, Jr.  
Rose Williams  
Helen Smith



RESOLUTION NO. 94-015

OF THE

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

WHEREAS: the Lac Vieux Desert Band of Lake Superior Chippewa Indians is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of June 18, 1934 and a constitution and bylaws approved by the Secretary of the Interior, and

WHEREAS: the Tribal Council is empowered to transact business and otherwise act on behalf of the Band, and

WHEREAS: pursuant to the Indian Gaming Regulatory Act, the Band negotiated with the State of Michigan for the operation of a Gaming Compact to permit Class III gaming on the Reservation, and

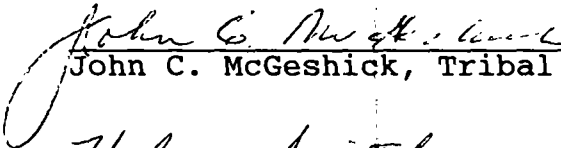
WHEREAS: in order to assure the successful operations of the Class III gaming compact, the Tribal Council has drawn up Gaming Ordinances and Rules and Regulations for the gaming operations, and

WHEREAS: the Tribal Council would like to formally adopt the proposed Gaming Ordinances and Rules and Regulation.

THEREFORE BE IT RESOLVED: that the Lac Vieux Desert Tribal Council formally adopts the Gaming Ordinances and the Rules and Regulations for the successful operation of the Class III Gaming Compact.

CERTIFICATION

We do hereby certify that this resolution was duly presented and voted upon with a vote of 6 in Favor, 2 Opposed, and 1 Abstaining, at a Regular Tribal Council Meeting of the Lac Vieux Desert tribal Council, held on April 5, 1994.

  
John C. McGeshick, Tribal Chairman

  
Helen Smith, Acting Secretary

APPROVED

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**LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS  
ORDINANCE NO. 3-94-A**

**CLASS I, II, AND III GAMING ORDINANCE**

- 1) Operation of Class I gaming shall be carried out solely by the Tribe, according to rules and regulations adopted by the Tribal Gaming Commission.
- 2) Class II and Class III gaming, shall be regulated by the Tribal Gaming Commission in accordance with the Indian Gaming Regulatory Act and the Tribal/ State Gaming Compact.
- 3) All proceeds of the gaming activities authorized by this ordinance and received by the Tribe shall be used to promote the health, education, and welfare of the Tribe. All proceeds shall be turned over to the accounting office on the next work day after said proceeds are obtained by the operator.

LAC VIEUX DESERT BAND OF LAKE SUPERIOR

CHIPPEWA INDIANS

CLASS II & III GAMING ORDINANCE

I. PURPOSE

The [Tribal Council ] (hereinafter "Tribe"), empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to set the terms for class II and III gaming operations on tribal lands.

II. GAMING AUTHORIZED

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703 (7) (A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. s 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized. Class III gaming is authorized pursuant to the Tribal- State gaming compact signed November 30, 1993.

III. OWNERSHIP OF GAMING

The Tribe shall have sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.<sup>2</sup>

IV. USE OF GAMING REVENUE

A. Net revenues from class II and III gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. s 2710 (b) (3).<sup>3</sup>

V. AUDIT

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<sup>1</sup> For class III gaming, the appropriate reference is 25 U.S.C. Section 2703 (8).

<sup>2</sup> If the tribe elects to allow individually owned gaming, it shall authorize such gaming in its ordinance according to 25 C.F.R. SS 522.10 and 522.11.

<sup>3</sup> Guidelines to Govern the Review and Approval of Per Capita Payments, memorandum to All Area Directors from the Assistant Secretary - Indian Affairs, December 21, 1992.

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission and the State of Michigan as provided for in the compact.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional, legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A. above.

## VI. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Class II and III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

## VII. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II and III gaming enterprise operated on Indian Lands:

### A. DEFINITIONS <sup>4</sup>

For the purpose of this section, the following definitions apply:

#### 1. Key employee means

- (1) Bingo caller;
  - (2) Counting room supervisor
  - (3) Chief of security;
  - (4) Custodian of gaming supplies or cash;
  - (5) Floor manager;
  - (6) Pit boss;
  - (7) Dealer;
  - (8) Croupier;
  - (9) Approver of credit; or
  - (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

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<sup>4</sup> To the extent any additional definitions deal with provisions of the IGRA, those terms are defined by the IGRA and the regulations of the National Indian Gaming Commission.

2. Primary management official means

- (a) The person having management responsibilities for a management contract;
- (b) Any person who has authority:
  - (1) To hire and fire employees; or
  - (2) To set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility.

B. APPLICATION FORMS

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, Local, or foreign law enforcement and regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosure indicated in this notice will result in the tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials

shall be notified in writing that they shall either:

- a. Complete a new application form the contains a Privacy Act notice; or
  - b. Sign a statement that contains a Privacy Act notice and consent to the routine uses described in that notice.
3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001.)

4. The Tribe shall notify in writing existing key employees and primary officials that they shall either:
- a. Complete a new application form that contains a notice regarding false statements; or
  - b. Sign a statement that contains the notice regarding false statements.

#### C. Background Investigations <sup>5</sup>

1. The Tribe shall request from each primary management official and from each key employee all of the following information:
  - a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  - b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver license numbers;
  - c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (b) of this

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<sup>5</sup> Unless a tribal-state compact provides that a state has exclusive jurisdiction with respect to conducting background investigations and issuing licenses, the background investigations provisons apply to class III gaming.

section;

- d. Current business and residence telephone numbers;
  - e. A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
  - f. A description of any previous or existing business relationships with the gaming industry generally, including ownership interests in those businesses;
  - g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  - h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
  - i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
  - j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) or (1) (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
  - k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  - l. A current photograph;
  - m. Any other information the Tribe deems relevant; and
  - n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. s 522.2 (h).
2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.



#### **D. Eligibility Determination**

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

#### **E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission**

1. When a key employee or primary management official begins work at a gaming operation authorization by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.
2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.
3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

#### **F. Report to the National Indian Gaming Commission**

1. Pursuant to the procedures set out in subsection E of this section, Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. an investigation report shall include all of the following:
  - a. Steps taken in conducting a background investigation;
  - b. Results obtained;

- c. Conclusions reached; and
  - d. The bases for those conclusions.
- 2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.
- 3. If a license is not issued to an applicant, the Tribe:
  - a. Shall notify the National Indian Gaming Commission; and
  - b. May forward copies of its eligibility determination and investigation report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
- 4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

#### G. Granting a Gaming License

- 1. If, within a thirty (30) day period after the National Indian Gaming commission receives a report, the National Indian Gaming Commission Notifies the tribe that it has no objection to the issuance of a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigation report to the national Indian Gaming Commission. the Tribe may issue a license to such applicant.
- 2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of report. Such a request shall suspend the 30-day period under paragraph G. 1 of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- 3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall make the final decision whether to

issue a license to such applicant.

#### H. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
3. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

#### VIII. License Locations

The Tribe shall issue a separate license to each place, facility, or location on Indian Lands where class II & III gaming is conducted under this ordinance.

#### IX. Repeal

To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.